

ASSEMBLY BILL

No. 492

Introduced by Assembly Member Quirk

February 20, 2013

An act to amend Section 1203.9 of the Penal Code, relating to probation.

LEGISLATIVE COUNSEL'S DIGEST

AB 492, as introduced, Quirk. Probation: nonviolent drug offenses.

Existing law requires the sentencing court, whenever a person is granted probation for a nonviolent drug possession offense, to transfer jurisdiction of the entire case, upon a finding by the receiving court of the person's permanent residency in the receiving county, unless there is a determination on the record that the transfer would be inappropriate.

This bill would delete those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1203.9 of the Penal Code is amended to
2 read:
3 1203.9. (a) Whenever a person is released on probation or
4 mandatory supervision, the court, upon noticed motion, shall
5 transfer the case to the superior court in any other county in which
6 the person resides permanently, meaning with the stated intention
7 to remain for the duration of probation or mandatory supervision,
8 unless the transferring court determines that the transfer would be
9 inappropriate and states its reasons on the record. Upon notice of

1 the motion for transfer, the court of the proposed receiving county
2 may provide comments for the record regarding the proposed
3 transfer, following procedures set forth in rules of court developed
4 by the Judicial Council for this purpose, pursuant to subdivision
5 (e) (d). The court and the probation department shall give the matter
6 of investigating those transfers precedence over all actions or
7 proceedings therein, except actions or proceedings to which special
8 precedence is given by law, to the end that all those transfers shall
9 be completed expeditiously.

10 (b) The court of the receiving county shall accept the entire
11 jurisdiction over the case.

12 ~~(e) Notwithstanding subdivision (a), whenever a person is~~
13 ~~granted probation under Section 1210.1, the sentencing court shall~~
14 ~~transfer jurisdiction of the entire case, upon a finding by the~~
15 ~~receiving court of the person's permanent residency in the receiving~~
16 ~~county, unless there is a determination on the record that the~~
17 ~~transfer would be inappropriate.~~

18 ~~(d)~~

19 (c) The order of transfer shall contain an order committing the
20 probationer or supervised person to the care and custody of the
21 probation officer of the receiving county and, if applicable, an
22 order for reimbursement of reasonable costs for processing the
23 transfer to be paid to the sending county in accordance with Section
24 1203.1b. A copy of the orders and any probation reports shall be
25 transmitted to the court and probation officer of the receiving
26 county within two weeks of the finding that the person does
27 permanently reside in or has permanently moved to that county,
28 and thereafter the receiving court shall have entire jurisdiction
29 over the case, with the like power to again request transfer of the
30 case whenever it seems proper.

31 ~~(e)~~

32 (d) The Judicial Council shall promulgate rules of court for
33 procedures by which the proposed receiving county shall receive
34 notice of the motion for transfer and by which responsive
35 comments may be transmitted to the court of the transferring
36 county. The Judicial Council shall adopt rules providing factors
37 for the court's consideration when determining the appropriateness
38 of a transfer, including, but not limited to, the following:

39 (1) Permanency of residence of the offender.

40 (2) Local programs available for the offender.

- 1 (3) Restitution orders and victim issues.

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